

AMENDED IN SENATE MAY 31, 2011

AMENDED IN SENATE APRIL 27, 2011

AMENDED IN SENATE APRIL 14, 2011

**SENATE BILL**

**No. 653**

---

**Introduced by Senator Steinberg**

February 18, 2011

---

An act to amend Sections 17041.5, 30111, and 32010 of, to add Section 17041.6 to, and to add Chapter 3.53 (commencing with Section 7289), Chapter 3.54 (commencing with Section 7289.10), Chapter 3.55 (commencing with Section 7289.20), Chapter 3.56 (commencing with Section ~~7289.30~~ 7289.31), Chapter 3.57 (commencing with Section 7289.40), and Chapter 3.58 (commencing with Section 7289.50), to Part 1.7 of Division 2 of, the Revenue and Taxation Code, relating to local taxation, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 653, as amended, Steinberg. Local taxation: counties: ~~school~~ *community college* districts: *county offices of education*: general authorization.

The California Constitution prohibits the Legislature from imposing taxes for local purposes, but allows the Legislature to authorize local governments to impose them.

This bill would authorize the governing board of any county or city and county ~~and, any school community college~~ district, *and any county office of education* subject to specified constitutional and voter approval requirements, to levy, increase, or extend a local personal income tax, transactions and use tax, vehicle license fee, and excise tax, including, but not limited to, an alcoholic beverages tax, a cigarette and tobacco

products tax, a sweetened beverage tax, and an oil severance tax, as provided.

This bill would require the State Board of Equalization, the Franchise Tax Board, or the Department of Motor Vehicles to perform various functions incident to the administration and operation of a local tax if the county or city and county ~~or, the school~~ *community college* district, *or the county office of education* contracts with the state agency to perform those functions.

This bill for each fiscal year would also require a county or city and county ~~and, a school~~ *community college* district, *and a county office of education* to reimburse the state for any losses incurred by the state General Fund due to any deductions allowed under the Personal Income Tax Law and the Corporation Tax Law for any local taxes levied, increased, or extended pursuant to this authorization by that county or city and county ~~or school~~, *community college* district, *or county office of education*, as specified. This bill would, for each fiscal year, require the Franchise Tax Board, with the assistance of the State Board of Equalization, to estimate the losses incurred by the state General Fund attributable to each county or city and county ~~or, a school~~ *community college* district, *or a county office of education* due to any local taxes levied, increased, or extended by that county or city and county ~~or, school~~ district, *or county office of education*.

Vote: majority. Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     *SECTION 1. The Legislature finds and declares all of the*
- 2     *following:*
- 3     *(a) The recent economic recession and slow recovery has led*
- 4     *to an erosion of tax revenues and sharp reductions in public*
- 5     *services at all levels of government in California.*
- 6     *(b) Counties are geographical and political subdivisions of the*
- 7     *state and administer state and federal laws governing public safety,*
- 8     *public health, child welfare services, and other programs. County*
- 9     *governments have experienced declines in general purpose*
- 10    *revenues and need additional funding stability to adequately*
- 11    *protect the public health and safety.*
- 12    *(c) Our schools and community colleges have lost billions of*
- 13    *dollars in state funding in recent years. Budget reductions have*

1 *resulted in larger class sizes and the elimination of extracurricular*  
2 *activities in many schools and community colleges throughout*  
3 *California.*

4 *(d) California is lagging in per pupil expenditures and simply*  
5 *is not making the investment in public education needed to ensure*  
6 *that our children are prepared to compete globally in the 21st*  
7 *century economy.*

8 *(e) Public education and public safety are of vital concern to*  
9 *all Californians.*

10 *(f) Businesses throughout California would benefit if counties*  
11 *were able to stabilize funding for vital public services and schools*  
12 *and community colleges were able to have access to the resources*  
13 *they need to prepare the workforce of tomorrow.*

14 *(g) The Legislature controls the delegation of taxing authority*  
15 *to counties, community college districts, and county offices of*  
16 *education. These entities have limited taxing authority under*  
17 *current law.*

18 *(h) Local taxing authority is subject to the provisions of Article*  
19 *XIII C of the California Constitution, which requires local tax*  
20 *measures that impose, extend, or increase taxes for special*  
21 *purposes to be approved by a two-thirds vote of the electorate;*  
22 *and requires local tax measures that impose, extend, or increase*  
23 *taxes for general purposes to be approved by a majority vote of*  
24 *the electorate.*

25 *(i) Section 1 of Article II of the California Constitution provides*  
26 *that “[a]ll political power is inherent in the people.”*

27 *(j) Voters want the option of deciding whether taxes should be*  
28 *a part of the solution to budget shortfalls in their communities.*  
29 *The voters should have a voice in determining the services they*  
30 *want and are willing to pay for.*

31 *(k) That it is the intent of the Legislature to do both of the*  
32 *following:*

33 *(1) To fund the administrative costs incurred by any state agency*  
34 *resulting from the exercise of local taxing authority pursuant to*  
35 *this act with a separate appropriation in a budget act or with a*  
36 *deficiency appropriation.*

37 *(2) That local entities authorizing local tax measures under the*  
38 *authorization provided by this act ultimately reimburse state*  
39 *agencies for their administrative costs.*

1     *SEC. 2. Chapter 3.53 (commencing with Section 7289) is added*  
2     *to Part 1.7 of Division 2 of the Revenue and Taxation Code, to*  
3     *read:*

4  
5             *CHAPTER 3.53. GENERAL LOCAL TAX AUTHORIZATION*  
6

7     7289. Notwithstanding any other law, but subject to the  
8     limitations of the California Constitution, the governing board of  
9     any county or city and county, any community college district, and  
10    any county office of education may, in accordance with Article 3.7  
11    (commencing with Section 53720) of Chapter 4 of Part 1 of  
12    Division 2 of Title 5 of the Government Code, levy, increase, or  
13    extend any of the following taxes:

14    (a) A local personal income tax that is assessed and collected  
15    by the Franchise Tax Board in accordance with Section 17041.6.

16    (b) A transactions and use tax, adopted in accordance with the  
17    Transactions and Use Tax Law (Part 1.6 (commencing with Section  
18    7251)), notwithstanding any rate limitations specified in that law  
19    for a county or city and county, a community college district, or  
20    a county office of education.

21    (c) A local vehicle license fee that is assessed and collected in  
22    accordance with Chapter 3.54 (commencing with Section 7289.10).

23    (d) (1) An excise tax, including, but not limited to, a local  
24    alcoholic beverage tax, a local cigarette and tobacco products  
25    tax, a local sweetened beverage tax, and a local medical marijuana  
26    tax.

27    (A) A local alcoholic beverage tax shall be assessed and  
28    collected in accordance with Chapter 3.55 (commencing with  
29    Section 7289.20).

30    (B) A local cigarette and tobacco products tax shall be assessed  
31    and collected in accordance with Chapter 3.56 (commencing with  
32    Section 7289.31).

33    (C) A local sweetened beverage tax shall be assessed and  
34    collected in accordance with Chapter 3.58 (commencing with  
35    Section 7289.50).

36    (2) Notwithstanding paragraph (1), an excise tax shall not  
37    include a motor vehicle fuel tax or diesel fuel tax.

38    (3) A county or city and county, a community college district,  
39    or a county office of education may contract with the State Board  
40    of Equalization to administer an excise tax. The contract shall

1 contain a provision that the county or city and county, a community  
2 college district, or a county office of education shall reimburse  
3 the board for all refunds, losses, and costs incurred in the  
4 administration of the tax.

5 (e) A local tax on extractive business activities, as defined in  
6 paragraph (3) of subdivision (d) of Section 25128, not to exceed  
7 2 percent of the wholesale value per unit measure.

8 (f) A local oil severance tax that is assessed and collected in  
9 accordance with Chapter 3.57 (commencing with Section 7289.40).

10 7289.1. (a) For each fiscal year, a county or city and county,  
11 a community college district, and a county office of education shall  
12 reimburse the state for any losses incurred by the state General  
13 Fund due to any deductions allowed for that fiscal year under the  
14 Personal Income Tax Law (Part 10 (commencing with Section  
15 17001)) and the Corporation Tax Law (Part 11 (commencing with  
16 Section 23001)) for any local taxes levied, increased, or extended  
17 pursuant to this chapter by that county or city and county,  
18 community college district, or county office of education, in  
19 accordance with the estimate prescribed by subdivision (b).

20 (b) For each fiscal year, the Franchise Tax Board, with  
21 assistance from the State Board of Equalization, shall estimate  
22 the losses incurred by the state General Fund attributable to each  
23 county or city and county, a community college district, or a county  
24 office of education due to any local taxes levied, increased, or  
25 extended pursuant to this chapter by that county or city and county,  
26 community college district, or county office of education.

27 SEC. 3. Chapter 3.54 (commencing with Section 7289.10) is  
28 added to Part 1.7 of Division 2 of the Revenue and Taxation Code,  
29 to read:

30  
31 CHAPTER 3.54. LOCAL VEHICLE LICENSE FEE  
32

33 7289.10. (a) An ordinance or resolution imposing a local  
34 vehicle license fee, as authorized pursuant to Chapter 3.53  
35 (commencing with Section 7289), shall not exceed 1.35 percent.

36 (b) (1) The Department of Motor Vehicles shall administer the  
37 local vehicle license fee.

38 (2) Prior to the operative date of any ordinance or any  
39 resolution imposing a local vehicle license fee, the county or city  
40 and county, a community college district, or a county office of

1 education shall contract with the Department of Motor Vehicles  
2 to perform all functions incident to the administration of the local  
3 vehicle license fee.

4 (3) The contract shall require the county or city and county, a  
5 community college district, or a county office of education to  
6 reimburse the Department of Motor Vehicles for all refunds, losses,  
7 and costs incurred in the administration and operation of the local  
8 vehicle license fee.

9 (4) The local vehicle license fee shall be assessed and collected  
10 in the same manner as the fee imposed by Part 5 (commencing  
11 with Section 10701).

12 (5) (A) Amounts collected pursuant to this chapter shall be  
13 transmitted to the Treasurer and deposited in the State Treasury  
14 to the credit of the Local Vehicle License Fee Account in the  
15 General Fund, which is hereby created.

16 (B) Notwithstanding Section 13340 of the Government Code,  
17 the moneys in the Local Vehicle License Fee Account are hereby  
18 continuously appropriated, without regard to fiscal year, to the  
19 Controller for allocation to each county and city and county,  
20 community college district, and jurisdiction of each county office  
21 of education in which the local vehicle license fee is imposed.

22 (c) The Administrative Procedure Act (Chapter 3.5 (commencing  
23 with Section 11340) of Part 1 of Division 3 of Title 2 of the  
24 Government Code) shall not apply to any standard, criterion,  
25 procedure, determination, rule, notice, or guideline established  
26 or issued by the Department of Motor Vehicles in the  
27 administration of this chapter.

28 SEC. 4. Chapter 3.55 (commencing with Section 7289.20) is  
29 added to Part 1.7 of Division 2 of the Revenue and Taxation Code,  
30 to read:

31  
32 CHAPTER 3.55. LOCAL ALCOHOLIC BEVERAGE TAX  
33

34 7289.20. (a) Subject to the requirements of this chapter, the  
35 governing board of a county or city and county, a community  
36 college district, and a county office of education may impose a tax  
37 on the privilege of selling beer, wine, or distilled spirits at retail  
38 in the county or city and county, the community college district,  
39 or the jurisdiction of the county office of education, as authorized  
40 pursuant to Chapter 3.53 (commencing with Section 7289). The

1 *board of supervisors may impose this tax within an incorporated*  
2 *city within the county or city and county.*

3 *(b) Any tax imposed shall not exceed the following:*

4 *(1) On beer, five cents (\$0.05) per 12 ounces and at a*  
5 *proportionate rate for any other quantity.*

6 *(2) On wine, five cents (\$0.05) per 5 ounces and at a*  
7 *proportionate rate for any other quantity.*

8 *(3) On distilled spirits, five cents (\$0.05) per 1.5 ounces and at*  
9 *a proportionate rate for any other quantity.*

10 *(c) Any tax imposed shall not be regulatory within the meaning*  
11 *of Section 22 of Article XX.*

12 *7289.21. For purposes of this chapter, “beer,” “wine,” and*  
13 *“distilled spirits” have the same meanings as provided in Sections*  
14 *23006, 23007, and 23005 of the Business and Professions Code.*

15 *7289.22. (a) The imposition of a tax pursuant to this chapter*  
16 *shall not prohibit the concurrent application of a tax imposed*  
17 *pursuant to the Sales and Use Tax Law (Part 1 (commencing with*  
18 *Section 6001)), the Bradley-Burns Uniform Sales and Use Tax*  
19 *Law (Part 1.5 (commencing with Section 7200)), or a tax imposed*  
20 *in accordance with the Transactions and Use Tax Law (Part 1.6*  
21 *(commencing with Section 7251)), on the sale of or the, storage,*  
22 *use, or other consumption of, beer, wine or distilled spirits.*

23 *(b) Notwithstanding Section 7203.5 or any other law, the*  
24 *imposition of a tax pursuant to this chapter by a county or city*  
25 *and county, a community college district, or a county office of*  
26 *education shall not prohibit the concurrent administration by the*  
27 *State Board of Equalization of a sales or use tax ordinance adopted*  
28 *by that county or city and county pursuant to the Bradley-Burns*  
29 *Uniform Local Sales and Use Tax Law (Part 1.5 (commencing*  
30 *with Section 7200)) or in accordance with the Transactions and*  
31 *Use Tax Law (Part 1.6 (commencing with Section 7251)).*

32 *7289.23. Any ordinance or resolution levying a tax pursuant*  
33 *to this chapter shall provide that the tax shall conform to Part 1.6*  
34 *(commencing with Section 7251). However, a tax imposed pursuant*  
35 *to this chapter is not a sales or use tax or a transactions or use*  
36 *tax, and shall not be considered as such for purposes of Section*  
37 *7251.1.*

38 *7289.24. An ordinance or resolution adopted pursuant to this*  
39 *chapter shall be operative on the first day of a calendar quarter*

1 *commencing more than 90 days after the adoption of the ordinance*  
2 *or resolution.*

3 *7289.26. Prior to the operative date of any ordinance or*  
4 *resolution imposing a tax pursuant to this chapter, the governing*  
5 *board of the county or city and county, the community college*  
6 *district, or the county office of education shall do either of the*  
7 *following:*

8 *(a) Notify the State Board of Equalization in writing that the*  
9 *county or city and county, the community college district, or the*  
10 *county office of education will be responsible for administering*  
11 *the tax imposed pursuant to an ordinance or resolution authorized*  
12 *by this chapter on its own behalf, and that the ordinance or*  
13 *resolution does not impose any duties or responsibilities for*  
14 *administering the tax upon the board.*

15 *(b) Contract with the State Board of Equalization to perform*  
16 *all functions incident to the administration and operation of the*  
17 *ordinance or resolution. If the county or city and county, the*  
18 *community college district, or the county office of education has*  
19 *not contracted with the board prior to the operative date of the*  
20 *ordinance or resolution, the operative date shall be delayed until*  
21 *the first day of the first calendar quarter following the execution*  
22 *of the contract.*

23 *7289.27. For a county or city and county, a community college*  
24 *district, or a county office of education that elects to contract with*  
25 *the State Board of Equalization to administer a tax imposed by*  
26 *the county or city and county, the community college district, or*  
27 *the county office of education, as authorized by this chapter, the*  
28 *following shall apply:*

29 *(a) The contract shall require the county or city and county, the*  
30 *community college district, or the county office of education to do*  
31 *both of the following:*

32 *(1) Reimburse the State Board of Equalization for, and hold the*  
33 *board harmless from, any and all costs, losses, or refunds.*

34 *(2) In the event that a legal action is commenced challenging*  
35 *the validity of the tax in its entirety, as opposed to the application*  
36 *of the tax to an individual taxpayer, place the tax proceeds into*  
37 *an interest-bearing escrow account until the legality of the tax is*  
38 *resolved by a final and nonappealable decision rendered by a*  
39 *court of competent jurisdiction. This paragraph shall be*



1 enforceable by any interested party in a proceeding for a writ of  
2 mandate.

3 (b) The county or city and county, the community college district,  
4 or the county office of education shall reimburse the State Board  
5 of Equalization for any costs the board incurs in preparing to  
6 administer and operate the tax. The county or city and county, the  
7 community college district, or the county office of education shall  
8 reimburse the board as the costs are incurred and billed by the  
9 board, on a monthly basis. These reimbursable costs shall include  
10 costs incurred for the following:

- 11 (1) Developing procedures.
- 12 (2) Programming for data processing.
- 13 (3) Developing and adopting appropriate regulations.
- 14 (4) Designing and printing forms.
- 15 (5) Developing instructions for the State Board of Equalization  
16 staff and for taxpayers.

17 (6) Any other necessary preparatory costs, including the State  
18 Board of Equalization's direct and indirect costs as specified by  
19 Section 11256 of the Government Code.

20 (c) Any dispute as to the amount of preparatory costs incurred  
21 by the State Board of Equalization shall be resolved by the Director  
22 of Finance, whose decision shall be final. The maximum amount  
23 of all preparatory costs to be paid by the county or city and county,  
24 the community college district, or the county office of education  
25 to the board shall not exceed one hundred seventy-five thousand  
26 dollars (\$175,000).

27 (d) In addition to the amounts paid to the State Board of  
28 Equalization for the preparatory costs described in subdivision  
29 (b), the county or city and county, the community college district,  
30 or the county office of education shall reimburse the board for the  
31 cost of the board's services in administering the tax. The amount  
32 of this cost shall be determined by the board with the concurrence  
33 of the Department of Finance.

34 (e) All revenues collected from taxes imposed pursuant to the  
35 authorization of this chapter in counties or a city and county,  
36 community college districts, or county offices of education that  
37 have contracted with the State Board of Equalization to administer  
38 the tax shall be remitted to the board and allocated by the board  
39 as follows:

1     (1) *First, for reimbursement to the State Board of Equalization*  
2 *for the reasonable costs, as specified in subdivisions (b) and (d),*  
3 *of administering and enforcing the tax ordinance on behalf of the*  
4 *county or city and county, the community college district, or the*  
5 *county office of education pursuant to the contract between the*  
6 *board and the county or city and county, the community college*  
7 *district, or the county office of education.*

8     (2) *Second, for transmission to each county or city and county,*  
9 *community college district, or county office of education that has*  
10 *contracted with the State Board of Equalization pursuant to*  
11 *subdivision (b) of Section 7289.26, in proportion to the amount of*  
12 *revenues derived from each county's or city and county's,*  
13 *community college district's, or county office of education's*  
14 *respective tax.*

15     (f) *The State Board of Equalization shall transmit to a county*  
16 *or city and county, a community college district, or a county office*  
17 *of education all revenues derived from the taxes imposed pursuant*  
18 *to this chapter and collected by the board pursuant to a contract*  
19 *with the county or city and county, the community college district,*  
20 *or the county office of education periodically as promptly as*  
21 *feasible. The transmittals shall be made at least twice in each*  
22 *calendar quarter.*

23     7289.28. *Except as provided in Section 7289.29, to the extent*  
24 *practicable, Chapter 5 (commencing with Section 6451), Chapter*  
25 *6 (commencing with Section 6701), Chapter 7 (commencing with*  
26 *Section 6901), and Chapter 8 (commencing with Section 7051) of*  
27 *Part 1, shall govern determinations, collection of tax,*  
28 *overpayments, and refunds, and administration of all taxes imposed*  
29 *under the authorization of this chapter.*

30     7289.29. *The return and payment of any tax imposed pursuant*  
31 *to the authorization of this chapter shall be due and payable to*  
32 *the State Board of Equalization on the same date as the return and*  
33 *payment of the tax imposed pursuant to Part 1 (commencing with*  
34 *Section 6001), provided that the retailer is within the jurisdiction*  
35 *of a county or city and county, a community college district, or a*  
36 *county office of education that elects to contract with the board*  
37 *to administer the tax, pursuant to subdivision (b) of Section*  
38 *7289.26. If the retailer is within the jurisdiction of a county or city*  
39 *and county, a community college district, or a county office of*  
40 *education that has elected not to contract with the board to*

1 administer the tax, the return and payment of the tax imposed  
2 pursuant to the authorization of this chapter is due and payable  
3 from the retailer as prescribed in the ordinance or resolution  
4 adopted by the county or city and county, the community college  
5 district, or the county office of education.

6 7289.30. The Administrative Procedure Act (Chapter 3.5  
7 (commencing with Section 11340) of Part 1 of Division 3 of Title  
8 2 of the Government Code) shall not apply to any standard,  
9 criterion, procedure, determination, rule, notice, or guideline  
10 established or issued by the State Board of Equalization in the  
11 administration of this chapter.

12 SEC. 5. Chapter 3.56 (commencing with Section 7289.31) is  
13 added to Part 1.7 of Division 2 of the Revenue and Taxation Code,  
14 to read:

15  
16 CHAPTER 3.56. LOCAL CIGARETTE AND TOBACCO PRODUCT  
17 TAX  
18

19 7289.31. (a) Subject to the requirements of this chapter, the  
20 governing board of a county or city and county, a community  
21 college district, and a county office of education may impose a tax  
22 on the privilege of distributing cigarettes and tobacco products in  
23 the county or city and county, the community college district, or  
24 the jurisdiction of the county office of education, as authorized  
25 pursuant to Chapter 3.53 (commencing with Section 7289). The  
26 board of supervisors may impose this tax within an incorporated  
27 city within the county or city and county.

28 (b) Any tax imposed shall not exceed the following:

29 (1) On cigarettes, five cents (\$0.05) per cigarette.

30 (2) On tobacco products, based on the wholesale cost of these  
31 products, at a tax rate, as determined annually by the State Board  
32 of Equalization, which is equivalent to five cents (\$0.05) per  
33 cigarette.

34 (3) Any tax imposed shall be assessed and collected in the same  
35 manner as the taxes imposed by the Cigarette and Tobacco  
36 Products Tax Law (Part 13 (commencing with Section 30001)).

37 7289.32. An ordinance or resolution adopted pursuant to this  
38 chapter shall be operative on the first day of a calendar quarter  
39 commencing more than 110 days after the adoption of the  
40 ordinance or resolution.

1     7289.33. *Prior to the operative date of any ordinance or*  
2 *resolution imposing a tax pursuant to this chapter, the governing*  
3 *board of the county or city and county, the community college*  
4 *district, or the county office of education shall do either of the*  
5 *following:*

6     (a) *Notify the State Board of Equalization in writing that the*  
7 *county or city and county, the community college district, or the*  
8 *county office of education will be responsible for administering*  
9 *the tax imposed pursuant to an ordinance or resolution authorized*  
10 *by this chapter on its own behalf, and that the ordinance or*  
11 *resolution does not impose any duties or responsibilities for*  
12 *administering the tax upon the board.*

13     (b) *Contract with the State Board of Equalization to perform*  
14 *all functions incident to the administration and operation of the*  
15 *ordinance or resolution. If the county or city and county, the*  
16 *community college district, or the county office of education has*  
17 *not contracted with the board prior to the operative date of the*  
18 *ordinance or resolution, the operative date shall be delayed until*  
19 *the first day of the first calendar quarter following the execution*  
20 *of the contract.*

21     7289.34. *For a county or city and county, a community college*  
22 *district, or a county office of education that elects to contract with*  
23 *the State Board of Equalization to administer a tax imposed by*  
24 *the county or city and county, the community college district, or*  
25 *the county office of education, as authorized by this chapter, the*  
26 *following shall apply:*

27     (a) *The contract shall require the county or city and county, the*  
28 *community college district, or the county office of education to do*  
29 *both of the following:*

30     (1) *Reimburse the State Board of Equalization for, and hold the*  
31 *board harmless from, any and all costs, losses, or refunds.*

32     (2) *In the event that a legal action is commenced challenging*  
33 *the validity of the tax in its entirety, as opposed to the application*  
34 *of the tax to an individual taxpayer, place the tax proceeds into*  
35 *an interest-bearing escrow account until the legality of the tax is*  
36 *resolved by a final and nonappealable decision rendered by a*  
37 *court of competent jurisdiction. This paragraph shall be*  
38 *enforceable by any interested party in a proceeding for a writ of*  
39 *mandate.*

1     ***(b) The county or city and county, the community college district,***  
2     ***or the county office of education shall reimburse the State Board***  
3     ***of Equalization for any costs the board incurs in preparing to***  
4     ***administer and operate the tax. The county or city and county, the***  
5     ***community college district, or the county office of education shall***  
6     ***reimburse the board as the costs are incurred and billed by the***  
7     ***board, on a monthly basis. These reimbursable costs shall include***  
8     ***costs incurred for the following:***

9     ***(1) Developing procedures.***  
10    ***(2) Programming for data processing.***  
11    ***(3) Developing and adopting appropriate regulations.***  
12    ***(4) Designing and printing forms.***  
13    ***(5) Developing instructions for the State Board of Equalization***  
14    ***staff and for taxpayers.***

15    ***(6) Any other necessary preparatory costs, including the State***  
16    ***Board of Equalization's direct and indirect costs as specified by***  
17    ***Section 11256 of the Government Code.***

18    ***(c) Any dispute as to the amount of preparatory costs incurred***  
19    ***by the State Board of Equalization shall be resolved by the Director***  
20    ***of Finance, whose decision shall be final. The maximum amount***  
21    ***of all preparatory costs to be paid by the county or a city and***  
22    ***county, the community college district, or the county office of***  
23    ***education to the board shall not exceed one hundred seventy-five***  
24    ***thousand dollars (\$175,000).***

25    ***(d) In addition to the amounts paid to the State Board of***  
26    ***Equalization for the preparatory costs described in subdivision***  
27    ***(b), the county or a city and county, the community college district,***  
28    ***or the county office of education shall reimburse the board for the***  
29    ***cost of the board's services in administering the tax. The amount***  
30    ***of this cost shall be determined by the board with the concurrence***  
31    ***of the Department of Finance.***

32    ***(e) All revenues collected from taxes imposed pursuant to the***  
33    ***authorization of this chapter in counties or a city and county,***  
34    ***community college districts, or county offices of education that***  
35    ***have contracted with the State Board of Equalization to administer***  
36    ***the tax shall be remitted to the board and allocated by the board***  
37    ***as follows:***

38    ***(1) First, for reimbursement to the State Board of Equalization***  
39    ***for the reasonable costs, as specified in subdivisions (b) and (d),***  
40    ***of administering and enforcing the tax ordinance on behalf of the***

1 county or city and county, the community college district, or the  
2 county office of education pursuant to the contract between the  
3 board and the county or city and county, the community college  
4 district, or the county office of education.

5 (2) Second, for transmission to each county or city and county,  
6 community college district, or county office of education that has  
7 contracted with the State Board of Equalization pursuant to  
8 subdivision (b) of Section 7289.33, in proportion to the amount of  
9 revenues derived from each county's or city and county's,  
10 community college district's, or county office of education's  
11 respective tax.

12 (f) The State Board of Equalization shall transmit to a county  
13 or city and county, a community college district, or a county office  
14 of education all revenues derived from the taxes imposed pursuant  
15 to this chapter and collected by the board pursuant to a contract  
16 with the county or city and county, the community college district,  
17 or the county office of education periodically as promptly as  
18 feasible. The transmittals shall be made at least twice in each  
19 calendar quarter.

20 7289.35. Except as provided in Section 7289.36, to the extent  
21 practicable, Chapter 4 (commencing with Section 30181), Chapter  
22 5 (commencing with Section 30301), Chapter 6 (commencing with  
23 Section 30361), and Chapter 8 (commencing with Section 30451)  
24 of Part 13, shall govern determinations, collection of tax,  
25 overpayments, and refunds, and administration of all taxes imposed  
26 under the authorization of this chapter.

27 7289.36. The return and payment of any tax imposed pursuant  
28 to the authorization of this chapter is due and payable to the State  
29 Board of Equalization on the same date as the return and payment  
30 of the tax imposed pursuant to Part 13 (commencing with Section  
31 30001), provided that the retailer is within the jurisdiction of a  
32 county or city and county, a community college district, or a county  
33 office of education that elects to contract with the board to  
34 administer the tax, pursuant to subdivision (b) of Section 7289.33.  
35 If the retailer is within the jurisdiction of a county or city and  
36 county, a community college district, or a county office of education  
37 that has elected not to contract with the board to administer the  
38 tax, the return and payment of the tax imposed pursuant to the  
39 authorization of this chapter is due and payable from the retailer  
40 as prescribed in the ordinance or resolution adopted by the county

or city and county, the community college district, or the county office of education.

7289.37. The Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) shall not apply to any standard, criterion, procedure, determination, rule, notice, or guideline established or issued by the State Board of Equalization in the administration of this chapter.

SEC. 6. Chapter 3.57 (commencing with Section 7289.40) is added to Part 1.7 of Division 2 of the Revenue and Taxation Code, to read:

*CHAPTER 3.57. LOCAL OIL SEVERANCE TAX*

7289.40. (a) Subject to the requirements of this chapter, the governing board of a county or city and county, a community college district, and a county office of education may impose a tax upon a producer for the privilege of severing oil from the earth or water in the county or city and county, the community college district, or the jurisdiction of the county office of education for sale, transport, consumption, storage, profit, or use, as authorized pursuant to Chapter 3.53 (commencing with Section 7289). The board of supervisors may impose this tax within an incorporated city within the county or city and county.

(b) Any tax imposed shall not exceed 10 percent of the gross value of the product.

(c) Except as otherwise provided in this chapter, the tax shall be upon the entire production in the county or city and county, the community college district, or the jurisdiction of the county office of education, regardless of the place of sale or to whom sold or by whom used, or the fact that the delivery may be made to points outside the county or city and county, community college district, or the jurisdiction of the county office of education.

(d) The tax shall be in addition to any ad valorem taxes imposed by the state, or any of its political subdivisions, or any local business license taxes that may be incurred for the privilege of severing oil from the earth or water or doing business in that locality. An exemption shall not be allowed from the payment of an ad valorem tax related to equipment, material, or property by reason of the payment of the gross severance tax.

1     (e) Two or more producers that are corporations and are owned  
2     or controlled directly or indirectly, as defined in Section 25105,  
3     by the same interests shall be considered as a single producer for  
4     purposes of application of the tax.

5     (f) There shall be exempted from the imposition of the tax  
6     imposed pursuant to this part oil produced by a stripper well in  
7     which the average value of oil as of January 1 of the prior year is  
8     less than thirty dollars (\$30) per barrel price of California oil.  
9     The Division of Oil, Gas, and Geothermal Resources in the  
10    Department of Conservation shall provide notification of all wells  
11    that have been certified as a stripper well.

12    (g) For oil produced in this state from a well that qualifies under  
13    Section 3251 of the Public Resources Code or which has been  
14    inactive for a period of at least the preceding five consecutive  
15    years, the imposition of the tax imposed pursuant to this part shall  
16    be reduced to zero for a period of 10 years. The Division of Oil,  
17    Gas, and Geothermal Resources in the Department of Conservation  
18    shall determine which wells qualify under Section 3251 of the  
19    Public Resources Code or which have been inactive for a period  
20    of at least the preceding five consecutive years, and shall provide  
21    notification of its determinations.

22    (h) There shall be exempted from the imposition of a tax imposed  
23    all oil owned or produced by the state and any political  
24    subdivision's (including any local public entity, as defined by  
25    Section 900.4 of the Government Code) proprietary share of oil  
26    produced under any unit, cooperative, or other pooling agreement.  
27    7289.41. For purposes of any tax imposed, all of the following  
28    definitions shall apply:

29    (a) "Barrel of oil" means 42 United States gallons of 231 cubic  
30    inches per gallon computed at a temperature of 60 degrees  
31    Fahrenheit.

32    (b) "Gross value" means the sale price at the mouth of the well,  
33    including any bonus, premium, or other thing of value paid for the  
34    oil. If there is no sale at the time of severance, "gross value" means  
35    the sale price when the oil is sold, including any bonus, premium,  
36    or other thing of value paid for the oil. If oil is exchanged for  
37    something other than cash, or if the relation between the buyer  
38    and the seller is such that the consideration paid, if any, is not  
39    indicative of the true value or market price, then the board shall  
40    determine the value of the oil subject to the tax based on the cash



1 *price paid to producers for like quality oil in the vicinity of the*  
2 *well.*

3 (c) *“Oil” means petroleum, or other crude oil, condensate,*  
4 *casing head gasoline, or other mineral oil that is mined, produced,*  
5 *or withdrawn from below the surface of the soil or water in the*  
6 *county or city and county, the community college district, or the*  
7 *jurisdiction of the county office of education.*

8 (d) *“Producer” means any person or entity that takes oil from*  
9 *the earth or water in the county or city and county, the community*  
10 *college district, or the jurisdiction of the county office of education*  
11 *in any manner; any person that owns, controls, manages, or leases*  
12 *any oil well in the earth or water of the county or city and county,*  
13 *the community college district, or the jurisdiction of the county*  
14 *office of education; any person that produces or extracts in any*  
15 *manner any oil by taking it from the earth or water in the county*  
16 *or city and county, the community college district, or the*  
17 *jurisdiction of the county office of education; any person that*  
18 *acquires the severed oil from a person or agency exempt from*  
19 *property taxation under the United States Constitution or other*  
20 *laws of the United States or under the California Constitution or*  
21 *other laws of the State of California; and any person that owns*  
22 *an interest, including a royalty interest, in oil or its value, whether*  
23 *the oil is produced by the person owning the interest or by another*  
24 *on the person’s behalf by lease, contract, or other arrangement.*

25 (e) *“Production” means the total gross amount of oil produced,*  
26 *including the gross amount attributable to a royalty or other*  
27 *interest.*

28 (f) *“Severed” or “severing” means the extraction or*  
29 *withdrawing from below the surface of the earth or water of any*  
30 *oil, regardless of whether the extraction or withdrawal shall be*  
31 *by natural flow, mechanical flow, forced flow, pumping, or any*  
32 *other means employed to get the oil from below the surface of the*  
33 *earth or water, and shall include the extraction or withdrawal by*  
34 *any means whatsoever of oil upon which the tax has not been paid,*  
35 *from any surface reservoir, natural or artificial, or from a water*  
36 *surface.*

37 (g) *“Stripper well” means a well that has been certified by the*  
38 *Division of Oil, Gas, and Geothermal Resources in the Department*  
39 *of Conservation as an oil well incapable of producing an average*  
40 *of more than 10 barrels of oil per day during the entire taxable*

1 month. Once a well has been certified as a stripper well, that stripper well shall remain certified as a stripper well until the well produces an average of more than 10 barrels of oil per day during an entire taxable month.

7289.42. Prior to the operative date of any ordinance or resolution imposing a tax pursuant to this chapter, the governing board of the county or city and county, the community college district, or the county office of education shall do either of the following:

(a) Notify the State Board of Equalization in writing that the county or city and county, the community college district, or the county office of education will be responsible for administering the tax imposed pursuant to an ordinance or a resolution authorized by this chapter on its own behalf, and that the ordinance or resolution does not impose any duties or responsibilities for administering the tax upon the board.

(b) Contract with the State Board of Equalization to perform all functions incident to the administration and operation of the ordinance or resolution. If the county or city and county, the community college district, or the county office of education has not contracted with the board prior to the operative date of the ordinance or resolution, but shall contract, the operative date shall be delayed until the first day of the first calendar quarter following the execution of the contract.

7289.43. For a county or city and county, a community college district, or a county office of education that elects to contract with the State Board of Equalization to administer a tax imposed by the county or city and county, the community college district, or the county office of education, as authorized by this chapter, the following shall apply:

(a) The contract shall require the county or city and county, the community college district, or the county office of education to do both of the following:

(1) Reimburse the State Board of Equalization for, and hold the board harmless from, any and all costs, losses, or refunds.

(2) In the event that a legal action is commenced challenging the validity of the tax in its entirety, as opposed to the application of the tax to an individual taxpayer, place the tax proceeds into an interest-bearing escrow account until the legality of the tax is resolved by a final and nonappealable decision rendered by a

1 court of competent jurisdiction. This paragraph shall be  
2 enforceable by any interested party in a proceeding for a writ of  
3 mandate.

4 (b) The county or city and county, the community college district,  
5 or the county office of education shall reimburse the State Board  
6 of Equalization for any costs the board incurs in preparing to  
7 administer and operate the tax. The county or city and county, the  
8 community college district, or the county office of education shall  
9 reimburse the board as the costs are incurred and billed by the  
10 board, on a monthly basis. These reimbursable costs shall include  
11 costs incurred for the following:

12 (1) Developing procedures.

13 (2) Programming for data processing.

14 (3) Developing and adopting appropriate regulations.

15 (4) Designing and printing forms.

16 (5) Developing instructions for the State Board of Equalization  
17 staff and for taxpayers.

18 (6) Any other necessary preparatory costs, including the State  
19 Board of Equalization's direct and indirect costs as specified by  
20 Section 11256 of the Government Code.

21 (c) Any dispute as to the amount of preparatory costs incurred  
22 by the State Board of Equalization shall be resolved by the Director  
23 of Finance, whose decision shall be final. The maximum amount  
24 of all preparatory costs to be paid by the county or city and county,  
25 the community college district, or the county office of education  
26 to the board shall not exceed one hundred seventy-five thousand  
27 dollars (\$175,000).

28 (d) In addition to the amounts paid to the State Board of  
29 Equalization for the preparatory costs described in subdivision  
30 (b), the county or city and county, the community college district,  
31 or the county office of education shall reimburse the board for the  
32 cost of the board's services in administering the tax. The amount  
33 of this cost shall be determined by the board with the concurrence  
34 of the Department of Finance.

35 (e) All revenues collected from taxes imposed pursuant to the  
36 authorization of this chapter in counties or a city and county,  
37 community college districts, or county offices of education that  
38 have contracted with the State Board of Equalization to administer  
39 the tax shall be remitted to the board and allocated by the board  
40 as follows:

1     (1) First, for reimbursement to the State Board of Equalization  
2     for the reasonable costs, as specified in subdivisions (b) and (d),  
3     of administering and enforcing the tax ordinance on behalf of the  
4     county or city and county, the community college district, or the  
5     county office of education pursuant to the contract between the  
6     board and the county or city and county, the community college  
7     district, or the county office of education.

8     (2) Second, for transmission to each county or city and county,  
9     community college district, or county office of education that has  
10    contracted with the State Board of Equalization pursuant to  
11    subdivision (b) of Section 7289.42, in proportion to the amount of  
12    revenues derived from each county's or city and county's,  
13    community college district's, or county office of education's  
14    respective tax.

15    (f) The State Board of Equalization shall transmit to a county  
16    or city and county, a community college district, or a county office  
17    of education all revenues derived from the taxes imposed pursuant  
18    to this chapter and collected by the board pursuant to a contract  
19    with the county or city and county, the community college district,  
20    or the county office of education periodically as promptly as  
21    feasible. The transmittals shall be made at least twice in each  
22    calendar quarter.

23    7289.44. (a) For a producer within a jurisdiction of a county  
24    or city and county, a community college district, or a county office  
25    of education that elects to contract with the State Board of  
26    Equalization to administer the tax pursuant to subdivision (b) of  
27    Section 7289.42, the following apply:

28    (1) (A) The return and payment of any tax imposed pursuant  
29    to the authorization of this chapter is due and payable to the board  
30    quarterly on or before the last day of the month next succeeding  
31    each calendar quarter.

32    (B) Each producer shall prepare and file with the State Board  
33    of Equalization a return in the form prescribed by the board  
34    containing information as the board deems necessary or  
35    appropriate for the proper administration of the tax. The return  
36    shall be filed on or before the last day of the calendar month  
37    following the calendar quarter to which it relates, together with  
38    a remittance payable to the board for the amount of tax due for  
39    that period.

1     (2) *The State Board of Equalization may prescribe those forms*  
2 *and reporting requirements as necessary to implement the tax,*  
3 *including, but not limited to, information regarding the location*  
4 *of the well by county or city and county, district, or jurisdiction*  
5 *of the county office of education, the gross amount of oil produced,*  
6 *the quantity sold and the selling price, the prevailing market price*  
7 *of oil, and the amount of tax due.*

8     (3) *The State Board of Equalization shall administer and collect*  
9 *the tax, to the extent practicable, pursuant to the Fee Collection*  
10 *Procedures Law (Part 30 (commencing with Section 55001) of*  
11 *Division 2). For purposes of this part, the references in the Fee*  
12 *Collection Procedures Law to “fee” shall include the tax imposed*  
13 *by this part, and to “feepayer” shall include a producer required*  
14 *to pay the tax imposed by this part.*

15     (4) *The State Board of Equalization may prescribe, adopt, and*  
16 *enforce regulations relating to the administration and enforcement*  
17 *of this chapter.*

18     (b) *If the producer is within the jurisdiction of a county or city*  
19 *and county, a community college district, or a county office of*  
20 *education that has elected not to contract with the State Board of*  
21 *Equalization to administer the tax, the determinations, collection*  
22 *of tax, overpayments, and refunds, and administration of the tax*  
23 *imposed under the authorization of this chapter shall be prescribed*  
24 *in the ordinance or resolution adopted by the county or city and*  
25 *county, the community college district, or the county office of*  
26 *education.*

27     7289.45. *The Administrative Procedure Act (Chapter 3.5*  
28 *(commencing with Section 11340) of Part 1 of Division 3 of Title*  
29 *2 of the Government Code) shall not apply to any standard,*  
30 *criterion, procedure, determination, rule, notice, or guideline*  
31 *established or issued by the State Board of Equalization in the*  
32 *administration of this chapter.*

33     SEC. 7. *Chapter 3.58 (commencing with Section 7289.50) is*  
34 *added to Part 1.7 of Division 2 of the Revenue and Taxation Code,*  
35 *to read:*

36  
37             CHAPTER 3.58. *LOCAL SWEETENED BEVERAGE TAX*  
38

39     7289.50. (a) *Subject to the requirements of this chapter, the*  
40 *governing board of a county or city and county, a community*

1 college district, and a county office of education may impose a tax  
2 upon a distributor for the privilege of distributing bottled  
3 sweetened beverages and concentrate in the county or city and  
4 county, the community college district, or the jurisdiction of the  
5 county office of education, as authorized pursuant to Chapter 3.53  
6 (commencing with Section 7289). The board of supervisors may  
7 impose this tax within an incorporated city within the county or  
8 city and county.

9 (b) Any tax imposed shall be calculated as follows:

10 (1) The tax on bottled sweetened beverages distributed in the  
11 county or city and county shall be imposed per fluid ounce, not to  
12 exceed one cent (\$.01) per fluid ounce.

13 (2) The tax on concentrate distributed in the county or city and  
14 county, the community college district, or the jurisdiction of the  
15 county office of education, either as concentrate or as a sweetened  
16 beverage derived from that concentrate, shall be imposed per fluid  
17 ounce of sweetened beverage produced from that concentrate, not  
18 to exceed one cent (\$.01) per fluid ounce. For purposes of  
19 calculating the tax for concentrate, the volume of sweetened  
20 beverage to be produced from concentrate shall be the largest  
21 volume resulting from use of the concentrate according to any  
22 manufacturer's instructions.

23 (c) There shall be exempted from the imposition of a tax imposed  
24 the distribution of bottled sweetened beverages or concentrate  
25 distributed by a distributor to:

26 (1) To a person when, pursuant to the contract of sale, the  
27 bottled sweetened beverages or concentrates are shipped to a point  
28 outside of this state by the distributor by means of any of the  
29 following:

30 (A) Facilities operated by the distributor.

31 (B) Delivery by the distributor to a carrier, customs broker, or  
32 forwarding agent, whether hired by the purchaser or not, for  
33 shipment to the out-of-county point.

34 (2) To a person where the county or city and county, the  
35 community college district, or the county office of education is  
36 prohibited from taxing that sale, use, or consumption under the  
37 Constitution or laws of the United States or under the Constitution  
38 of this state.

39 7289.51. For purposes of any tax imposed, all of the following  
40 definitions shall apply:

1 (a) *“Beverage container” means any closed or sealed container*  
2 *regardless of size or shape, including, without limitation, those*  
3 *made of glass, metal, paper, plastic, or any other material or*  
4 *combination of materials.*

5 (b) *“Bottled sweetened beverage” means a sweetened beverage*  
6 *contained in a beverage container.*

7 (c) *“Beverage dispensing machine” means a device which mixes*  
8 *concentrate with any one or more other ingredients and dispenses*  
9 *the resulting mixture into an open container as a ready-to-drink*  
10 *beverage.*

11 (d) *“Caloric sweetener” means any caloric substance suitable*  
12 *for human consumption that humans perceive as sweet and*  
13 *includes, without limitation, sucrose, fructose, including high*  
14 *fructose corn sweetener, glucose, other sugars, and fruit juice*  
15 *concentrates. “Caloric” means a substance that adds calories to*  
16 *the diet of a person who consumes that substance.*

17 (e) *“Concentrate” means a syrup, powder, or base product that*  
18 *is used for mixing, compounding, or making sweetened beverages*  
19 *in a beverage dispensing machine. For purposes of this part,*  
20 *“concentrate” does not include any of the following:*

21 (1) *Any product that is solely used in preparing coffee or tea.*

22 (2) *Any product for consumption by infants and which is*  
23 *commonly referred to as “infant formula.”*

24 (3) *Any product for use for weight reduction.*

25 (4) *Any product containing milk or milk products or plant*  
26 *proteins sources.*

27 (5) *Any frozen concentrate or freeze-dried concentrate to which*  
28 *only water is added to produce a sweetened beverage containing*  
29 *more than 10 percent natural fruit juice or more than 10 percent*  
30 *natural fruit juice.*

31 (6) *Any product that is sold and is intended to be used for the*  
32 *purpose of an individual consumer mixing a sweetened beverage.*

33 (7) *Medical food.*

34 (8) *Any product to which no caloric sweeteners have been*  
35 *added.*

36 (f) *“Consumer” means a person who purchases a bottled*  
37 *sweetened beverage or concentrate for a purpose other than resale*  
38 *in the ordinary course of business.*

39 (g) *“Distribution” includes:*

1     (1) *The sale of bottled sweetened beverages or concentrate to*  
2     *a retailer.*

3     (2) *The receipt of untaxed bottled sweetened beverages or*  
4     *concentrate in this state from an unregistered out-of-state*  
5     *distributor by a retailer.*

6     (h) *“Distributor” means any person, or the distributor’s agent,*  
7     *who makes a distribution of bottled sweetened beverages,*  
8     *sweetened beverages, or concentrate in the state, whether or not*  
9     *that person also sells these products to consumers.*

10    (i) *“Medical food” means medical food as defined in Section*  
11    *109971 of the Health and Safety Code.*

12    (j) *“Milk” means natural liquid milk, regardless of animal*  
13    *source or butterfat content, natural milk concentrate, whether or*  
14    *not reconstituted, regardless of animal source, plant source, or*  
15    *butterfat content, or dehydrated natural milk, whether or not*  
16    *reconstituted and regardless of animal source or butterfat content.*

17    (k) *“Natural fruit juice” means the original liquid resulting*  
18    *from the pressing of fruit, the liquid resulting from the*  
19    *reconstitution of natural fruit juice concentrate, or the liquid*  
20    *resulting from the restoration of water to dehydrated natural fruit*  
21    *juice.*

22    (l) *“Natural vegetable juice” means the original liquid resulting*  
23    *from the pressing of vegetables, the liquid resulting from the*  
24    *reconstitution of natural vegetable juice concentrate, or the liquid*  
25    *resulting from the restoration of water to dehydrated natural*  
26    *vegetable juice.*

27    (m) *“Nonalcoholic beverage” means any beverage not subject*  
28    *to tax under Part 14 (commencing with Section 32001).*

29    (n) *“Person” means an individual, trust, firm, joint stock*  
30    *company, business concern, business trust, receiver, trustee,*  
31    *syndicate, social club, fraternal organization, estate, corporation,*  
32    *including, but not limited to, a government corporation,*  
33    *partnership, limited liability company, and association or any*  
34    *other group or combination acting as a unit. “Person” also*  
35    *includes any city, county, city and county, district, commission,*  
36    *the state, or any department, agency, or political subdivision*  
37    *thereof, any interstate body, and the United States and its agencies*  
38    *and instrumentalities to the extent permitted by law.*

39    (o) *“Powder” or “base product” means a solid mixture of*  
40    *ingredients used in making, mixing, or compounding sweetened*



1 *beverages by mixing the powder or base product with any one or*  
2 *more other ingredients, including, without limitation, water, ice,*  
3 *syrup, simple syrup, fruits, vegetables, fruit juice, vegetable juice,*  
4 *or carbonation or other gas.*

5 *(p) “Retail sale” means the sale of bottled sweetened beverages*  
6 *or sweetened beverages to a consumer.*

7 *(q) “Retailer” means any person who sells in this state bottled*  
8 *sweetened beverages or sweetened beverages to a consumer,*  
9 *whether or not that person is also a distributor as defined in this*  
10 *section.*

11 *(r) “Sale” means the transfer of title or possession for*  
12 *consideration in any manner or by any means whatever.*

13 *(s) “Simple syrup” means a mixture of sugar and water.*

14 *(t) (1) “Sweetened beverage” means any sweetened*  
15 *nonalcoholic beverage sold for human consumption that contains*  
16 *any added caloric sweeteners, including, but not limited to, the*  
17 *following: soda water, ginger ale, root beer, all beverages*  
18 *commonly referred to as cola, lime, lemon, lemon-lime, and other*  
19 *flavored beverages, including any fruit or vegetable beverage*  
20 *containing 10 percent or less natural fruit juice or natural*  
21 *vegetable juice, and all other drinks and beverages commonly*  
22 *referred to as “soda,” “soda pop,” and “soft drinks.”*

23 *(2) “Sweetened beverage” does not include any of the following:*

24 *(A) Any product sold in liquid form for consumption by infants,*  
25 *which is commonly referred to as “infant formula.”*

26 *(B) Any product sold in liquid form for use for weight reduction.*

27 *(C) Water, to which no caloric sweeteners have been added.*

28 *(D) Any product containing milk or milk products or plant*  
29 *protein sources.*

30 *(E) Medical food.*

31 *(F) Coffee or tea.*

32 *(u) “Syrup” means the liquid mixture of ingredients used in*  
33 *making, mixing, or compounding sweetened beverages using one*  
34 *or more other ingredients including, without limitation, water, ice,*  
35 *a powder, simple syrup, fruits, vegetables, fruit juice, vegetable*  
36 *juice, or carbonation or other gas.*

37 *7289.52. Prior to the operative date of any ordinance or*  
38 *resolution imposing a tax pursuant to this chapter, the governing*  
39 *board of the county or city and county, the community college*

1 district, or the county office of education shall do either of the  
2 following:

3 (a) Notify the State Board of Equalization in writing that the  
4 county or city and county, the school district, or the county office  
5 of education will be responsible for administering the tax imposed  
6 pursuant to an ordinance or a resolution authorized by this chapter  
7 on its own behalf, and that the ordinance or resolution does not  
8 impose any duties or responsibilities for administering the tax  
9 upon the State Board of Equalization.

10 (b) Contract with the State Board of Equalization to perform  
11 all functions incident to the administration and operation of the  
12 ordinance or resolution. If the county or city and county, the  
13 community college district, or the county office of education has  
14 not contracted with the board prior to the operative date of the  
15 ordinance or resolution, but shall contract, the operative date shall  
16 be delayed until the first day of the first calendar quarter following  
17 the execution of the contract.

18 7289.53. For a county or city and county, a community college  
19 district, or a county office of education that elects to contract with  
20 the State Board of Equalization to administer a tax imposed by  
21 the county or city and county, the community college district, or  
22 the county office of education, as authorized by this chapter, the  
23 following shall apply:

24 (a) The contract shall require the county or city and county, the  
25 community college district, or the county office of education to do  
26 both of the following:

27 (1) Reimburse the State Board of Equalization for, and hold the  
28 board harmless from, any and all costs, losses, or refunds.

29 (2) In the event that a legal action is commenced challenging  
30 the validity of the tax in its entirety, as opposed to the application  
31 of the tax to an individual taxpayer, place the tax proceeds into  
32 an interest-bearing escrow account until the legality of the tax is  
33 resolved by a final and nonappealable decision rendered by a  
34 court of competent jurisdiction. This paragraph shall be  
35 enforceable by any interested party in a proceeding for a writ of  
36 mandate.

37 (b) The county or city and county, the community college district,  
38 or the county office of education shall reimburse the State Board  
39 of Equalization for any costs the board incurs in preparing to  
40 administer and operate the tax. The county or city and county, the

1 community college district, or the county office of education shall  
2 reimburse the board as the costs are incurred and billed by the  
3 board, on a monthly basis. These reimbursable costs shall include  
4 costs incurred for the following:

- 5 (1) Developing procedures.
- 6 (2) Programming for data processing.
- 7 (3) Developing and adopting appropriate regulations.
- 8 (4) Designing and printing forms.
- 9 (5) Developing instructions for the State Board of Equalization  
10 staff and for taxpayers.

11 (6) Any other necessary preparatory costs, including the State  
12 Board of Equalization's direct and indirect costs as specified by  
13 Section 11256 of the Government Code.

14 (c) Any dispute as to the amount of preparatory costs incurred  
15 by the State Board of Equalization shall be resolved by the Director  
16 of Finance, whose decision shall be final. The maximum amount  
17 of all preparatory costs to be paid by the county or city and county,  
18 the community college district, or the county office of education  
19 to the board shall not exceed one hundred seventy-five thousand  
20 dollars (\$175,000).

21 (d) In addition to the amounts paid to the State Board of  
22 Equalization for the preparatory costs described in subdivision  
23 (b), the county or city and county, the community college district,  
24 or the county office of education shall reimburse the board for the  
25 cost of the board's services in administering the tax. The amount  
26 of this cost shall be determined by the board with the concurrence  
27 of the Department of Finance.

28 (e) All revenues collected from taxes imposed pursuant to the  
29 authorization of this chapter in counties or a city and county,  
30 community college districts, or county offices of education that  
31 have contracted with the State Board of Equalization to administer  
32 the tax shall be remitted to the board and allocated by the board  
33 as follows:

34 (1) First, for reimbursement to the State Board of Equalization  
35 for the reasonable costs, as specified in subdivisions (b) and (d),  
36 of administering and enforcing the tax ordinance on behalf of the  
37 county or city and county, the community college district, or the  
38 county office of education pursuant to the contract between the  
39 board and the county or city and county, the community college  
40 district, or the county office of education.

1     (2) *Second, for transmission to each county or city and county,*  
2 *community college district, or county office of education that has*  
3 *contracted with the State Board of Equalization pursuant to*  
4 *subdivision (b) of Section 7289.52, in proportion to the amount of*  
5 *revenues derived from each county's or city and county's,*  
6 *community college district's, or county office of education's*  
7 *respective tax.*

8     (f) *The State Board of Equalization shall transmit to a county*  
9 *or city and county, a community college district, or a county office*  
10 *of education all revenues derived from the taxes imposed pursuant*  
11 *to this chapter and collected by the board pursuant to a contract*  
12 *with the county or city and county, the community college district,*  
13 *or the county office of education periodically as promptly as*  
14 *feasible. The transmittals shall be made at least twice in each*  
15 *calendar quarter.*

16     7289.54. (a) *For a distributor that is subject to the jurisdiction*  
17 *of a county or city and county, a community college district, or a*  
18 *county office of education that elects to contract with the State*  
19 *Board of Equalization to administer the tax pursuant to subdivision*  
20 *(b) of Section 7289.52, the following apply:*

21     (1) *Every distributor shall register with the State Board of*  
22 *Equalization. Every application for registration shall be made*  
23 *upon a form prescribed by the board and shall set forth the name*  
24 *under which the applicant transacts or intends to transact business,*  
25 *the location of his or her place or places of business, and any other*  
26 *information as the board may require. An application for an*  
27 *account shall be authenticated in a form or pursuant to methods*  
28 *as may be prescribed by the board.*

29     (2) (A) *There is exempt from any tax the distribution of bottled*  
30 *sweetened beverages or concentrate distributed by a distributor*  
31 *to a distributor registered with the board under paragraph (1)*  
32 *when supported by a properly completed exemption certificate.*

33     (B) *The exemption certificate to be provided by a distributor to*  
34 *another distributor as described in subparagraph (A) shall consist*  
35 *of a statement that is signed under penalty of perjury by a person*  
36 *with authority to bind the distributor. The certificate shall be dated*  
37 *and include the distributor's name and account number. A new*  
38 *certificate shall be given if any information in the current*  
39 *certificate changes. The certificate may be included as part of any*  
40 *business records normally used to document a sale or distribution.*

1 (C) A distributor who has paid a tax, either directly to the State  
2 Board of Equalization or to another distributor registered pursuant  
3 to paragraph (1), and makes a subsequent distribution of bottled  
4 sweetened beverages or concentrate may claim a credit on its  
5 return for the period in which the subsequent sale or distribution  
6 occurs.

7 (3) (A) The return and payment of any tax imposed pursuant  
8 to the authorization of this chapter is due and payable to the State  
9 Board of Equalization quarterly on or before the last day of the  
10 month next succeeding each calendar quarter.

11 (B) Each distributor shall prepare and file with the State Board  
12 of Equalization a return in the form prescribed by the board  
13 containing information as the board deems necessary or  
14 appropriate for the proper administration of the tax. The return  
15 shall be filed on or before the last day of the calendar month  
16 following the calendar quarter to which it relates, together with  
17 a remittance payable to the board for the amount of tax due for  
18 that period.

19 (4) The State Board of Equalization may prescribe those forms  
20 and reporting requirements as necessary to implement the tax,  
21 including, but not limited to, information regarding the total  
22 amount of bottled sweetened beverages and concentrate sold and  
23 the amount of tax due.

24 (5) The State Board of Equalization shall administer and collect  
25 the tax, to the extent practicable, pursuant to the Fee Collection  
26 Procedures Law (Part 30 (commencing with Section 55001) of  
27 Division 2). For purposes of this part, the references in the Fee  
28 Collection Procedures Law to “fee” shall include the tax imposed  
29 by this part, and to “feepayer” shall include a producer required  
30 to pay the tax imposed by this part.

31 (6) The State Board of Equalization may prescribe, adopt, and  
32 enforce regulations relating to the administration and enforcement  
33 of this chapter.

34 (7) Returns shall be authenticated in a form or pursuant to  
35 methods as may be prescribed by the board.

36 (b) If the distributor is within the jurisdiction of a county or city  
37 and county, a community college district, or a county office of  
38 education that has elected not to contract with the State Board of  
39 Equalization to administer the tax, the determinations, collection  
40 of tax, overpayments, refunds, and administration of the tax

1 *imposed under the authorization of this chapter shall be prescribed*  
2 *in the ordinance or resolution adopted by the county or city and*  
3 *county, the community college district, or the county office of*  
4 *education.*

5 7289.55. *The Administrative Procedure Act (Chapter 3.5*  
6 *(commencing with Section 11340) of Part 1 of Division 3 of Title*  
7 *2 of the Government Code) shall not apply to any standard,*  
8 *criterion, procedure, determination, rule, notice, or guideline*  
9 *established or issued by the State Board of Equalization in the*  
10 *administration of this chapter.*

11 SEC. 8. *Section 17041.5 of the Revenue and Taxation Code is*  
12 *amended to read:*

13 17041.5. *Notwithstanding any statute, ordinance, regulation,*  
14 *rule or decision to the contrary, ~~no a city, county, city and county,~~*  
15 *governmental subdivision, district, public and quasi-public*  
16 *corporation, municipal corporation, whether incorporated or not*  
17 *or whether chartered or not, shall not levy or collect or cause to*  
18 *be levied or collected any tax upon the income, or any part thereof,*  
19 *of any person, resident or nonresident. For purposes of this section,*  
20 *“governmental subdivision, district, public and quasi-public*  
21 *corporation, municipal corporation, whether incorporated or not*  
22 *or whether chartered or not” shall not include a community college*  
23 *district or a county office of education.*

24 *This section shall not be construed so as to prohibit the levy or*  
25 *collection of any otherwise authorized license tax upon a business*  
26 *measured by or according to gross receipts.*

27 SEC. 9. *Section 17041.6 is added to the Revenue and Taxation*  
28 *Code, to read:*

29 17041.6. (a) *A local ordinance or resolution, authorized*  
30 *pursuant to Chapter 3.53 (commencing with Section 7289) of Part*  
31 *1.7, imposing a local personal income tax shall become operative*  
32 *for taxable years beginning on or after January 1 of the year in*  
33 *which the ordinance or resolution is approved by the voters of the*  
34 *county or city and county, the community college district, or the*  
35 *county office of education.*

36 (b) (1) *A local personal income tax may be calculated as a*  
37 *percentage of taxable income shown on the state personal income*  
38 *tax return filed for a taxable year by a resident of the county or*  
39 *city and county, the community college district, or the jurisdiction*

1 of the county office of education in which the local personal income  
2 tax is imposed.

3 (2) A local personal income tax shall not exceed 1 percent of  
4 taxable income for a taxable year.

5 (3) A local personal income tax may be imposed on one or more  
6 of the income tax brackets prescribed in Section 17041.

7 (c) For each taxable year for which a local personal income  
8 tax is operative under subdivision (a), in addition to any other  
9 taxes imposed by this part, an additional tax on the taxable income  
10 of a county or city and county, a community college district, and  
11 a county office of education resident shall be imposed at the rate  
12 approved by the voters of that county or city and county, that  
13 community college district, or that county office of education.

14 (d) For purposes of applying Part 10.2 (commencing with  
15 Section 18401), including, but not limited to, the requirement for  
16 the payment of estimated tax and wage withholding, the tax  
17 imposed under this section shall be treated as if it were imposed  
18 under Section 17041.

19 (e) Any credit authorized under this part shall not be applied  
20 to reduce taxes imposed under this section.

21 (f) (1) Prior to the operative date of any ordinance or resolution  
22 imposing a local personal income tax, the county or city and  
23 county, the community college district, or the county office of  
24 education shall contract with the Franchise Tax Board to perform  
25 all functions incident to the administration of the local personal  
26 income tax.

27 (2) The contract shall require the county or city and county, the  
28 community college district, or the county office of education to  
29 reimburse the Franchise Tax Board for all refunds, losses, and  
30 costs incurred in the administration and operation of the local  
31 personal income tax.

32 (g) Any information, information sources, or enforcement  
33 remedies and capabilities available to the county or city and  
34 county, the community college district, or the county office of  
35 education shall be made available to the Franchise Tax Board to  
36 be used in conjunction with, or independent of, the information,  
37 information sources, or remedies and capabilities available to the  
38 Franchise Tax Board for purposes of administering this section.

39 (h) The Franchise Tax Board may adopt regulations necessary  
40 to administer this section.

1 (i) (1) Amounts collected pursuant to this section shall be  
2 transmitted to the Treasurer and deposited in the State Treasury  
3 to the credit of the Local Personal Income Tax Account in the  
4 General Fund, which is hereby created.

5 (2) Notwithstanding Section 13340 of the Government Code,  
6 the moneys in the Local Personal Income Tax Account are hereby  
7 continuously appropriated, without regard to fiscal year, to the  
8 Controller for allocation to each county and city and county,  
9 community college district, and county office of education in which  
10 the local personal income tax is imposed.

11 (j) Any payments and withholding credits shown on the return  
12 shall be applied in the following order:

13 (1) Taxes imposed under Part 10 (commencing with Section  
14 17001) or Part 11 (commencing with Section 23001), including  
15 penalties, interest, and fees, if any, imposed under Part 10.2  
16 (commencing with Section 18401).

17 (2) Qualified use tax reported on the return in accordance with  
18 Section 6452.1.

19 (3) Local personal income taxes imposed under Section 17041.6.  
20 If a taxpayer owes a local personal income tax to more than one  
21 county or city and county, community college district, or county  
22 office of education, and the payments and withholding credits  
23 received are insufficient to satisfy the total amount of all local  
24 personal income taxes due by the taxpayer for the taxable year,  
25 the Franchise Tax Board shall allocate the payments and  
26 withholding credits on a pro rata basis to the county or city and  
27 county, community college district, or county office of education.

28 (k) For a county office of education, any revenues derived from  
29 the imposition of a local personal income tax as authorized by this  
30 section shall be apportioned to the school districts located within  
31 the jurisdiction of the county office of education on the basis of  
32 average daily attendance.

33 (l) Notwithstanding Section 19551, the tax officials of a county  
34 or city and county, a community college district, or a county office  
35 of education shall not be required to do either of the following:

36 (1) Request information from the Franchise Tax Board by  
37 affidavit.

38 (2) Provide the affected person with a copy of the affidavit.

39 (m) The Administrative Procedure Act (Chapter 3.5  
40 (commencing with Section 11340) of Part 1 of Division 3 of Title



1 2 of the Government Code) shall not apply to any standard,  
2 criterion, procedure, determination, rule, notice, or guideline  
3 established or issued by the Franchise Tax Board pursuant to this  
4 section.

5 SEC. 10. Section 30111 of the Revenue and Taxation Code is  
6 amended to read:

7 30111. The taxes imposed by this part are in lieu of all other  
8 state, county, municipal, or district taxes on the privilege of  
9 distributing cigarettes or tobacco products.

10 This section does not prohibit the application of Part 1  
11 (commencing with Section 6001), Part 1.5 (commencing with  
12 Section 7200), Part 1.6 (commencing with Section 7251), or Article  
13 2 (commencing with Section 37021) of Part 17 to the sale, storage,  
14 use or other consumption of cigarettes or tobacco products, or a  
15 local ordinance or resolution, authorized pursuant to Chapter  
16 3.53 (commencing with Section 7289), imposing a local alcoholic  
17 beverage tax in accordance with Chapter 3.55 (commencing with  
18 Section 7289.20).

19 SEC. 11. Section 32010 of the Revenue and Taxation Code is  
20 amended to read:

21 32010. The taxes imposed by this part are in lieu of all county,  
22 municipal, or district taxes on the sale of beer, wine, or distilled  
23 spirits.

24 This section does not prohibit the application of Part 1  
25 (commencing with Section 6001), Part 1.5 (commencing with  
26 Section 7200) or Part 1.6 (commencing with Section 7251) to the  
27 sale, storage, use or other consumption of beer, wine, or distilled  
28 spirits, or a local ordinance or resolution, authorized pursuant to  
29 Chapter 3.53 (commencing with Section 7289), imposing a local  
30 cigarette and tobacco products tax in accordance with Chapter  
31 3.56 (commencing with Section 7289.31).

32  
33  
34 **All matter omitted in this version of the bill**  
35 **appears in the bill as amended in the**  
36 **Senate, April 27, 2011. (JR11)**  
37